

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-661-2012 (O&M)

Date of decision: 29.01.2016

Gurpreet Kaur and others

..Appellants

Versus

Janardan Singh and anr.

..Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. K. S. Chahal, Advocate for the appellants.

Mr. M. B. Jain, Advocate for respondent No.2.

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 05.10.2011, passed by the learned Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal').

It is contended that the learned Tribunal erred in not granting adequate compensation in terms of the law laid down by the Hon'ble Supreme Court in *Rajesh Vs. Rajbir Singh (SC), 2013 (3) R.C.R. (Civil), 170*.

The learned counsel for the respondent-Insurance

Company states that just and reasonable compensation has been allowed and pray for dismissal of the appeal.

I have heard the learned counsel for the parties and perused the record.

The fact of accident is not disputed. From the record, it stands established that the deceased had died as a result of the accident.

From the perusal of the award, it emerges that the learned Tribunal did not award any compensation on account of the future prospects. It is not in dispute that the deceased was 32 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, an addition of 50% is ordered in the actual income of the deceased towards future prospects. However, the learned counsel for the insurance company states that future prospects is not admissible to the appellant as Hon'ble Supreme Court is seized of the matter. However, he categorically states that there is no stay in the matter.

As per the schedule, the minimum wages for the relevant year was Rs.3914/-. Accordingly, the income of the deceased is raised from Rs.2500/- to Rs.4,000/-.

In this way, the amount of compensation under the head

of 'loss of dependency' comes to Rs.4,000/- + 50% X 12 X 16 X 3/4 = Rs.8,64,000/-, as against an amount of Rs.3,60,000/-, assessed by the learned Tribunal under this head.

Further, it is noticed that Rs.5,000/- has been awarded under the head 'loss of consortium' and Rs.5,000/- has been awarded towards the head 'cremation and last rites'. Accordingly, following the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, amount of Rs.5,000/- awarded towards 'loss of consortium' is enhanced to Rs.1,00,000/- payable to the wife of the deceased and Rs.5,000/- awarded under 'cremation and last rites' is enhanced to Rs.15,000/- under this head.

Furthermore, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776***, an amount of Rs.1,00,000/- is awarded to the children of the deceased for loss of love, care and guidance, in equal shares.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.7,09,000/- [Rs.5,04,000/- (enhancement towards loss of dependence) + Rs.95,000/- (towards 'loss of consortium', payable to the wife of the deceased only) + Rs.10,000/- (enhancement towards 'cremation and last rites') + Rs.1,00,000/- (towards the head 'loss of love, care

and guidance')]] as indicated above, in the manner prescribed in the impugned award, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

29.01.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**